

House of Representatives Standing Committee
on Family and Community Affairs

Submission No: 993

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Secretary:

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Committee Secretary
Standing Committee on Family and Community Affairs
Child Custody Arrangements Inquiry
Dept of the House of Representatives
Parliament House
Canberra ACT 2600
Australia

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Dear Committee,

RE: *Submission to the Committee's Child Custody Arrangements Inquiry*

This letter acts as a submission to the Committee's Child Custody Arrangements Inquiry.

I strongly oppose the Parliamentary Inquiry into Joint Residence Arrangements for separated parents. Attached is a brief account of my personal experience since separation and reasons for my objection.

Yours sincerely

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BRIEF HISTORY

I am a 41-year-old woman. I was in a de-facto relationship for 15 years. We have three sons under the age of 10. My children and I have been victims of domestic violence at the hands of their father. I was too scared to report it, as I feared for my safety and that of my children. However, events in September 2001 made it intolerable for me to continue in this relationship without taking steps to put an end to the cycle of violence. I have notified DOCS on several occasions, to date they have not intervened.

Our situation is not amicable and we are only able to communicate through solicitors. Currently, through interim orders, the children are residing with me, however my ex-partner is opposing these orders as he wants shared care of the children. He has made it clear to me that his reasons for seeking 'joint residency' is to reduce the rate of Child Support Payments and to minimise the property settlement. At no time as he mentioned that he wishes to spend more time with the boys.

My ex-partner resides in the family home, which is unencumbered (he is mortgage free). The children and I reside in a flat, I am paying rent with the assistance of the Government and rely heavily on child support payments to provide the children with their everyday needs.

TERMS OF REFERENCE

(a) *Given that the best interests of the child are the paramount consideration:*

(i) *What other factors should be taken into account in deciding the respective time each parent should spend with their children post separation, in particular whether there should be a presumption that children spend equal time with each parent and, if so, in what circumstances such a presumption could be rebutted.*

- The children have experienced and are still experiencing physical and psychological damage by their father. We share Interim Orders, which are on average, every second weekend and alternate Tuesday afternoon contact with their father.

Under the proposed law the children would spend 50 % of their time with their father, which would mean exposure to even more violence. **Surely safety of the child should be paramount in determining residency issues on an individual basis.**

- It was agreed over ten years ago between my ex-partner and I that it would be in the best interests of our children for them to be cared for full time by their Mother. I therefore gave up my career to raise the children. My skills are now totally outdated, I could not possibly hope to re-enter the workforce now and earn the sort of money that I once enjoyed and re-training would take quite some time. My ex-partner has continued to climb the corporate ladder and now earns a high income (\$90,000p.a).
- Having two separate households and 'shared care' would be financially very hard for the children and I. I would be forced to move to a much cheaper suburb and would need to rely on the help of government assistance. If enforced it would place the children and I in near poverty. This of course would affect the children, as I would not be in a position to provide the same living standards as the children's father. I imagine that where we could find affordable housing would be quite a distance away from where their father currently resides. He would oppose this move and it would become a court matter, how would the court handle such issues? How would we organise schooling, sporting pursuits and social events when distance is an issue? How would it affect the childrens relationships with friends and neighbours?

- I would have no choice but to re-enter the workforce, which would mean I would be unable to attend my various volunteer work at the children's school, in particular the Remedial Reading Program, as, would many other mothers in my position. The public school system relies on volunteers. Would extra funding be available to employ people to work in these roles?
- I would not be able to find the funds to take matters to court to try and prove that joint residency is harmful to the children. My ex-partner on the other hand can afford the best legal representation possible.
- My ex-partner has said "a reduced rate of Child Support Payments based on the shared care percentages affects the property settlement". This is utmost in his mind and is a driving factor behind his desire for 'joint residency' **NOT** any burning need to spend more time with his children.
- Many work places do not have the flexibility to provide shared working roles nor is part time work or child/school friendly hours readily available. I cannot see that many men would be able to give up their full time employment. Fathers would need to use before and after school care when the children are under their care. Whilst I support childcare centers and appreciate the job that they do it is not the nurturing caring environment we envisaged for our children when we decided to bring them into the world. Will the government create more childcare centres to facilitate this need? Would taxes need to be increased to help fund this?
- My ex-partner is a shift worker, with a roster regime that is inconsistent and very often changeable at the last minute. If joint residency exists, my three young boys would be shuffled around according to their fathers' schedule, causing disruption, confusion, and instability. This will affect their schooling and social activities. This would also force me to regularly negotiate with my ex-partner, this fills me with fear and is a dangerous tool for my ex-partner to use to continue to control me.
- My ex-partner has indicated that he will stop at nothing to gain a Joint Residency decision through the courts, so he can lower the amount of Child Support Payments and the property settlement. I believe that if Joint Residency were granted, he would then 'unofficially' ask me to take care of the children more often.
- In terms of child support issues under 'shared care' arrangements, my ex-partner 'resided' under the same roof for four months, BUT slept in a separate room; which was not attached the main house. With the current Child Support system,

the calculations are based on the number of nights each parent has the children under their care. My ex-partner did not spend any nights with the children, so shared care status should not have been granted. During that time he did not contribute financially according to this level of care, which caused my children and I financial hardship.

- Payments should be calculated on the basis of the actual period of time, rather than for the whole calendar year.

I strongly disagree with Mr Howards comments that any male role model is better than none. Boys should be raised in a nurturing and positive environment. In my case, how could an aggressive, violent father be a positive role model? I believe that extra contact with their father exposes them to a much higher risk of physical and emotional abuse and would result in a negative impact on their overall well being. It is not in my childrens best interests that a presumption be made for them to reside with their father 50 percent of the time. I strongly believe that the 'rights of the children' should be considered first and foremost, not the 'rights of the parents'. A 'one size fits all' solution is extremely dangerous. My children deserve the right to be considered on an individual basis, taking into account the unique situation they are in NOT a presumed model of parental division. I am therefore opposed to any presumed division of children of separated parents.

(ii) *In what circumstances a court should order that children of separated parents have contact with other persons, including grandparents.*

- Current family law provisions enable grandparents to make application with respect to grandchildren when they cannot make agreement without court intervention, therefore the provisions do not have to be changed.

(b) *Whether the existing child support formula works fairly both for parents in relation to their care of, and contact with, their children.*

- The existing child support formula imposes modest requirements on payer parents after exempting a self-support component and capping the income to be considered and it should therefore be maintained. The percentage formula does not reflect the actual costs of raising children, but child support makes a valued contribution, which, when it is paid, reduces child poverty and improves outcomes for children of separated parents. The percentages of payer contact used to calculate changes in the formula should not fall below the current definition of substantial care, as there is no proportionate reduction in costs to primary carer parent. Closely tying child contact and financial outcomes for parents also directs parental focus away from children's needs and interest to dollar outcomes and therefore functions in practice against the children's best interests.

To reduce child poverty in single parent households the threshold of the maintenance income test should be increased by 50 percent and the FTB taper rate on child support received should be reduced from 50 cents to 30 cents in the dollar. The payee's income should be disregarded as a factor in calculation of child support payable because that income does not change the payer's obligation to contribute to the support of their child.

Yours faithfully

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